GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – East Godavari District- Revision Petition filed by Sri Chirala Bapayya Panthulu S/o.Mrutyunjaya Deekshithulu R/o.Kamarajupeta (V) Gokavaram (M) East Godavari District against the Orders of the Additional Agent to Government, East Godavari District in C.M.A. No.41/2004, dated:19-02-2005 in respect of Acres 4.39 cents in R.S.No.70 and Acs.0.24 cents in R.S.No: 72/2 (Total Acs.4.63 cents) of Yamanapalli (V) Gangavaram (M) East Godavari District - Dismissed – Orders – Issued.

SOCIAL WELFARE (TW.LTR-2) DEPARTMENT

G.O.MS.No. 3 Dated: 08-01-2016
Read the following:-

1. Revision Petition filed by Sri Chirala Bapayya Panthulu S/o.Mrutyunjaya Deekshithulu R/o.Kamarajupeta (V) Gokavaram (M) East Godavari District dt.27.3.2006.
2. Govt.Memo.No.3153/LTR-2/2005-2, dt.19.04.2005 addressed to the Collector, East Godavari District, Kakinada/ the Additional Agent to Government & Project Officer, ITDA Rampachodavaram, East Godavari District.
3. From the Additional Agent to Government & Project Officer, ITDA Rampachodavaram, East Godavari District Ref.CMA.No.41/2004. dt.20.12.2008.
4. Govt.Lr.No. 3153/LTR-2/2005, dt.23.02.2015.

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ORDER:-

In the reference first read above, Sri Chirala Bapayya Panthulu S/o.Mrutyunjaya Deekshithulu R/o.Kamarajupeta (V) Gokavaram (M) East Godavari District has filed a Revision Petition before the Government against the orders of the Additional Agent to Government in CMA No.41/2004, dt.19.02.2005, wherein the Additional Agent to Government, Rampachodavaram confirmed the orders passed by the Special Deputy Collector (Tribal Welfare) Rampachodavaram in LTRP No.107/2000 dated 17.09.2002 who has held that Petitioner shall be ejected from the petition schedule land.

2. The Government, in the reference 2nd read above, have admitted the said Revision Petition and requested the Collector, East Godavari District, Kakinada/ the Additional Agent to Government & Project Officer, ITDA Rampachodavaram, East Godavari District to furnish the parawise remarks and connected case records on the Revision Petition , so as to dispose off the Revision Petition at Government level.

3. In the reference 3rd read above, the Additional Agent to Government & Project Officer, ITDA, Rampachodavaram, East Godavari District has furnished parawise remarks along with the connected records.

4. In the above Revision Petition, the Revision Petitioner has stated that he has purchased the land of an extent of Ac.4.39 cts in Sy.No.70 and Ac.0.24 cts in Sy.No.72/2 situated at Yamanapalli Village, Gangavaram Mandal, East Godavari District under an Agreement of Sale dt.10.09.1966 from one Avasarala Sitaramaiah. Further he has stated that on the date of the agreement of sale itself the possession was delivered to the Petitioner and hence the transaction took place prior to 1970, i.e. prior to Regulation 1/70.

5. The Revision Petition having been stood over for consideration till 28.2.2015 before the Government and the matter having been heard in the presence of both parties on 28.2.2015, the Government passes the following orders:

6. The case of the Revision Petitioner is that he got possession of the Scheduled land under agreement of sale dated:10.09.1966 but admittedly there is no sale deed much less before 03.02.1970. The learned Special Deputy Collector has held that the agreement of sale dated:10.09.1966 is hit under sec.3 of APSALT Regulation 1/1959 as amended by Regulation 1/70. Further there is no sanction / permission for the said property from the Competent Authority and when the sanction / permission for purchase of said property as required U/s.3 of Regulation 1/59, which is condition precedent for purchase by a non tribe is not obtained, such transaction would be hit by sec.3 of Regulation.

(P.T.O)

7. Basically, the said document is only an un-registered agreement which does not confirm any right on vendee except to claim for specific performance as per provisions of T.P. Act. The declaration by the vendee (Revision Petitioner) under the said agreement of sale in his land ceiling declaration as his holding does not ensure any benefit to the vendee (Revision Petitioner) therein. Since the said agreement itself is not U/s/3(i)(a) of AP Schedule Area and Transfer Regulation Act, the so called possession of vendee (Revision Petitioner) however long it is to be brushed aside by sec.3(i)(a) r/w.Sec.7 of the above Regulation.

8. Obviously there is no registered sale deed muchless before 03.02.1970 in the present case.

9. The Hon'ble High Court of A.P. has held that theory of adverse possession is not applicable in so far as agency tracts are concerned by its judgment in the year 1967. Further the full bench of the Hon'ble High Court of A.P. as reported in 1993 (1) ALT page-403. Which is a case between V.Somalamma vs.Deputy Collector (Tribal Welfare) has held that the P.S.A.L.T. Regulation is meant, for the protection of the interest of Tribes in the Schedule Areas and to see that the land in Schedule Area should be in possession of Tribes only. Whenever the possession of non tribe is void, it should be restored to the Tribe transferor or to Government for assignment to an eligible Tribe.

10. Therefore the judgment cited by the Revision Petitioner which is reported in 1995 (3) ALD page-222, also does not support the case of the Petitioner at all and it is reiterated that when the agreement of sale is hit U/s.3 of APSALT Regulation, all other proceedings such as land ceiling proceedings, pattadar pass book etc., are to be just ignored/brushed aside in view of overriding clause in the above regulation. The Special Deputy Collector has rightly held that the Petitioner is liable to be ejected from the petition schedule land, and the said order is rightly confirmed by the Additional Agent to Government.

11. Therefore the Government is of considered view that the order of eviction passed against the Petitioner is perfectly right. The Appellate Authority also rightly dismissed the Appeal. Viewed from any angle, the Government does not find any reason to interfere with the orders passed by the both Authorities below. Accordingly, the Revision Petition is Dismissed. Consequently the interim orders, if any, in favour of the Petitioner, stands vacated.

12. The Additional Agent to Government, Rampachodavaram, East Godavari District is requested to take necessary action in the matter accordingly.

13. The original record bearing CMA No.41/2004, received from the Additional Agent to Government & Project Officer, ITDA, Rampachodavaram, East Godavari District, through reference 3rd read above, is returned herewith and he is requested to acknowledge the receipt of the same immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr. A. VIDYA SAGAR
PRINCIPAL SECRETARY TO GOVERNMENT (TW)

To:
The Collector & Agent to Government, Kakinada, East Godavari District.
The Additional Agent to Government & Project Officer, ITDA
Rampachodavaram, East Godavari District.(w.e.)
The Special Deputy Collector, Tribal Welfare, Rampachodavaram, East Godavari District.
Copy to:
Sri K.Venkatesh & M.Babji, Advocates, H.No.1-1-64/1, Near Saptagiri theatre, RTC X Roads, Hyderabad – 500 020.
Sri Ch.V.MD.Srinivasa Rao, 1-7-6, Sriramnagar, Near Post Office, Bhanugudi Junction, Kakinada – 533 003.
The P.S to Hon'ble Minister (SWE & TWE) for information
The P.S to Principal Secretary to Government (TW)
SF/SC.

// FORWARDED:: BY ORDER //

SECTION OFFICER